



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL - 2 2014

Mr. James Billie, Chairman  
Seminole Indian Tribe of Florida  
6300 Stirling Road  
Hollywood, Florida 33024

Dear Mr. Billie:

The Environmental Protection Agency has completed its review of the revisions to the Seminole Indian Tribe of Florida's Chapter B, Part 12, *Water Quality Standards for Surface Waters*, submitted by letter from Ms. Cherise Maples, Director of the Seminole Environmental Resource Management Department, dated February 4, 2014. The revisions were adopted by the Seminole Tribal Council on October 11, 2013 and certified as duly adopted pursuant to the applicable tribal law by Jim Shore, Tribal General Counsel on October 11, 2013.

The revisions updated numeric aquatic life and human health criteria, added the Acrolein criterion and made several non-substantive changes that provided clarification and consistency. The EPA's review of each revision is discussed in the enclosed Decision Document. The criteria revisions are consistent with the EPA's National Recommended Water Quality Criteria and therefore, comply with the provisions of 40 CFR § 131.11(b)(1)(i). The EPA approves these revisions for all purposes of the Clean Water Act (CWA) pursuant to the EPA's authority under Section 303(c) of the CWA and its implementing regulations at 40 CFR Part 131.

We would like to commend you and your staff for your long-standing efforts to protect and enhance the waters of South Florida and encourage you to continue to expand your Water Quality Standards Program. As part of your program expansion, we recognize that you have developed a Numeric Nutrient Criteria Development Plan which would develop criteria to protect tribal waters from over enrichment of nutrients. Also, we understand that during the last several years that you have collected data to be used in the criteria development and very shortly you will begin the initial development of the criteria. This is a significant effort for your program. We applaud the expansion and look forward to continuing to work closely with your staff.

If you have any questions regarding EPA's action or need other assistance, please contact me at (404) 562-9345 or have a member of your staff contact Ms. Eve Zimmerman at (404) 562-9259.

Sincerely,

A handwritten signature in cursive script that reads "Gail Mitchell, for". The signature is written in dark ink and is positioned above the printed name and title.

James D. Giattina

Director

Water Protection Division

Enclosure

cc: Cherise Maples, Seminole Tribe  
Lisa Meday, Seminole Tribe

**United States Environmental Protection Agency Determination  
Under Section 303(c) of the Clean Water Act Review  
Seminole Water Code Chapter B. Water Quality  
Part 12, Water Quality Standards for Surface Waters  
Adopted October 11, 2013**

The following is the U. S. Environmental Protection Agency's analysis of the revisions to the Chapter B, Part 12, *Water Quality Standards for Surface Waters* (SWQS), of the Seminole Tribe of Florida's *Tribal Water Code*. On October 11, 2013, the Tribal Council adopted the revisions resulting from the Tribe's Triennial Review. The revisions were certified on October 11, 2013 by Jim Shore, Tribal General Counsel, as duly adopted pursuant to tribal law. The revisions were submitted on February 4, 2014, and received by the EPA on February 7, 2014. The revisions were effective for Tribal law purposes upon adoption and will be applicable for Clean Water Act (CWA) purposes upon approval by the EPA.

The SWQS are located in Part 11, *General Provisions* and Part 12 of the Tribal Water Code. The revisions submitted by the Tribe were all contained within Part 12 of the Code. The submittal included the addition of criteria for Acrolein, updates to the numeric aquatic life and human health criteria, edits to the equations for calculating metals criteria, renumbering of the parameters and clarification of the name of Lindane. The determination is divided into two portions. The first portion of this document summarizes the EPA's review of the revisions that are new or revised water quality standards (WQS) that are considered to be substantive changes. The second portion summarizes the revisions that were determined to be non-substantive changes to the SWQS.

The revisions were compared to the requirements of Section 303 of the CWA and 40 CFR Part 131. The results of the review are as follows:

Revisions to the SWQS Considered to be Substantive Changes to Water Quality Standards

**Part 12. Water Quality Standards for Surface Waters**

**Section 12.3 Water Quality Criteria**

**Table 12**

**Summary of revisions**

**Aquatic Life Criteria**

The Tribe revised the numeric criteria for the protection of the aquatic life found in the waters of the Big Cypress and Brighton Reservations. The revisions added criteria for constituents as follows:

<b>Aquatic Life Criteria Revisions<sup>1</sup></b>						
<b>Parameter</b>	<b>Class 1 Criteria</b>		<b>Class 2 Criteria</b>		<b>Class 3 Criteria</b>	
	<b>Existing</b>	<b>Revised</b>	<b>Existing</b>	<b>Revised</b>	<b>Existing</b>	<b>Revised</b>
Acrolein	None	3	None	3	None	3
Toxaphene	0.002	0.0002	0.002	0.0002	--	--
Pentachloro-phenol	$e^{(1.005[pH]-5.29)}$	$e^{(1.005[pH]-5.134)}$	$e^{(1.005[pH]-5.29)}$	$e^{(1.005[pH]-5.134)}$	$e^{(1.005[pH]-5.29)}$	$e^{(1.005[pH]-5.134)}$

<sup>1</sup>µg/l

The revised criteria are consistent with the EPA's *National Recommended Water Quality Criteria* found at <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>. Therefore, the revisions are consistent with § 303(c) of the CWA and 40 § CFR 131.11(b)(1)(i).

### Human Health Criteria:

The Tribe revised the following criteria for the protection of human health located in Table 12 of the SWQS.

Human Health Criteria Revision <sup>1</sup>				
Parameter	Class 1		Class 2	
	Existing	Revised	Existing	Revised
Chlorodibromomethane	0.41	0.4	13	No Revision
Aldrin	0.0000949	No Revision	0.00005	0.000050
Acenaphthene	1200	670	27000	990
Tetrachloroethylene (1,1,2,2) tetrachloroethene	3.0	3.3	No Revision	No Revision

<sup>1</sup> µg/l

The revised criteria are consistent with the EPA's *National Recommended Water Quality Criteria* found at <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>. Therefore, the revisions are consistent with § 303(c) of the CWA and 40 § CFR 131.11(b)(1)(i).

### Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) requires federal agencies, in consultation with the Fish and Wildlife Service (FWS) to ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species.

Based on review of available information, the EPA has determined that the EPA has “No Discretion” in the approval of the revisions to the human health criteria under Section 7 of the ESA based on the fact that the criteria are established for the protection of human health as an endpoint. Because the CWA's requirements for a particular state/tribe water quality criterion are particular to the designated use that the criterion is designed to protect, the EPA's review of human health criteria is limited to a consideration of whether the criteria protect the designated use associated with human health. With regard to consultation activities, Region 4 has concluded that the Agency's action to approve the aquatic life criteria revisions, which are equal to or more protective than the EPA's nationally recommended criteria, will be handled at a national level. Therefore, consultation on the aquatic life criteria revisions are being “Deferred to the National Consultation.”

The EPA's recommended approval decision on revisions to the Tribe's aquatic life criteria is fully consistent with Section 7(d) because it does not foreclose either the formulation by FWS or the implementation by the EPA of any alternatives that might be determined in the consultation to be needed to comply with Section 7(a)(2). By approving the standards subject to the results of the national consultation under Section 7(a)(2), the EPA would expressly retain the discretion to revise its approval

decision if the consultation identifies deficiencies in the standards requiring remedial action by the EPA. The revised standards increase the level of protection afforded to waters of the Tribe and will provide an effect that will be beneficial. Therefore, proceeding with our approval action prior to the completion of the national consultation will increase the protection that the standards provide for listed species/critical habitat during the interim period.

## **Decision**

Based on the above review, the identified new and revised water quality standards are consistent with the CWA and 40 CFR § 131. The EPA is approving these revisions to Chapter B, Part 12, *Water Quality Standards for Surface Waters* (SWQS), of Seminole Tribe of Florida's *Tribal Water Code*.

### Revisions to the SWQS Considered to be Non-substantive Changes to Water Quality Standards

## **Part 12. Water Quality Standards for Surface Waters**

### **Section 12.3 Water Quality Criteria**

#### **Table 12**

#### **Acrolein**

Because the newly adopted acrolein criteria is now designated as Parameter in the SWQS, all of the numbers assigned to the following parameters were revised.

The EPA approves the revisions of the parameter numbers, which are considered to be non-substantive changes to the SWQS, as being consistent with the CWA and the EPA's implementing regulations. The EPA notes, however, that its approval of these non-substantive changes does not re-open the EPA's prior approvals of the underlying substantive water quality standard.

#### **Metals Criteria Equations**

The scientific symbol for the trivalent Chromium Criteria was deleted from the equation used to calculate the criteria for Class 1 and 2 waters. The edit was as follows: ~~Cr(III)~~ $\exp^{(0.819[\ln H]+0.6848)}$ . The same revision was made to the equations for Copper, Nickel and Zinc Criteria. The revisions did not change the resulting criteria but only removed unnecessary information not needed to calculate the criteria. The revised equations are consistent with the EPA's recommendation for the calculation of the criteria found at <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>.

The EPA approves the revisions of the equations for the above parameters, which are considered to be non-substantive changes to the SWQS, as being consistent with the CWA and the EPA's implementing regulations. The EPA notes, however, that its approval of these non-substantive changes does not re-open the EPA's prior approvals of the underlying substantive water quality standards.

#### **Benzene Hexachloride**

The SWQS previously identified all three isomers of benzene hexachloride as Lindane. However, only the gamma isomer is Lindane. As shown in the following table, Lindane was deleted from the name of the alpha and beta benzene hexachloride.

Isomers of Benzene Hexachloride		
Parameter No.	Existing Name	Revised Name
40.r	<del>Lindane (a-benzene hexachloride)</del>	Benzene Hexachloride - alpha
40.s	<del>Lindane (b-benzene hexachloride)</del>	Benzene Hexachloride – beta
40.t	<del>Lindane (g-benzene hexachloride)</del>	Benzene Hexachloride – gamma (Lindane)

The revisions of the expression of these parameters are consistent with EPA’s recommendation for the expression of the parameters found at <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>.

The EPA approves the revisions of the expression of the above parameters, which are considered to be non-substantive changes to the SWQS, as being consistent with the CWA and the EPA’s implementing regulations. The EPA notes, however, that its approval of these non-substantive changes does not re-open the EPA’s prior approvals of the underlying substantive water quality standards.

### Use Attainability Analysis

The Tribe stated in its submittal that it reviewed use attainability analyses (UAA) for Class I, II and III waters, but clarified in a later email that the only UAA’s that have been done for Tribal waters were done to reclassify a group of waters to Class III Use, Agricultural Purpose. The Tribe reviewed those Class III waters and concluded that there was no significant change in these waters or no new information that warrants a change in the conclusion of the existing UAA. The Tribe’s review satisfies the requirements of 40 CFR § 131.20.

### Public Participation

A notice requesting comments on the proposed revisions to the Seminole Tribal Water Code was published in the Seminole Tribune on May 31, 2013. A public meeting was held on August 20, 2013. No comments were received.